



Community Development
Engineering and Resource
Protection Division
101 Mounts Bay Road, Bldg E
Williamsburg, VA 23185

Resource.protection@jamescitycountyva.gov

~~Building Safety and Permits~~
757-253-6620

~~Engineering and Resource Protection~~
757-253-6670

~~Planning~~
757-253-6685

~~Zoning Enforcement~~
757-253-6671

June 2, 2017

Monticello Woods Active Adult, LLC
c/o Jamestown Management
P.O. Box 5787
Williamsburg, VA 23188

Re: Settlement at Powhatan Creek, Phase III-B Lots 207-220, 223-231, 237-248, 265-271
and Common Area 65 – County Plan No. S-0006-2015

The purpose of this letter is to inform you that James City County has submitted the Sight Draft and Certification of Default to Fulton Bank to initiate a draw of the \$363,494 Letter of Credit No. D006845 which was posted for the above referenced project.

In accordance with the terms of the January 6, 2017 Subdivision Agreement, this surety was drawn just prior to expiration of the Letter of Credit as all requirements on the referenced project are not complete. This draw can be rescinded if within ten (10) days of the date of the draw you provide an acceptable form of surety to replace this Letter of Credit.

Sincerely,

Frances C. Geissler, Acting Director
James City County
Engineering and Resource Protection Division



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June 2, 2017


Fulton Bank, N.A.
601 Thimble Shoals Blvd, Suite 200
Newport News, VA 23606

RE: Fulton Bank Irrevocable Standby Letter of Credit Number: D006845
Original Issuance Date: June 2, 2015
Expiration Date: June 2, 2017

To Whom It May Concern:

County of James City, Virginia, by Bryan Hill, County Administrator, hereby certifies that:


MONTICELLO WOODS ACTIVE ADULT, LLC HAS FAILED TO SATISFACTORILY PERFORM, PRIOR TO THE EXPIRATION OF THIS LETTER OF CREDIT, ALL OR PART OF THE TERMS AND CONDITIONS OF THE SUBDIVISION AGREEMENT DATED JANUARY 6, 2015, PERTAINING TO THE SUBDIVISION/SITE PLAN THE SETTLEMENT AT POWHATAN CREEK, PHASE III-B LOTS 207-220, 223-231, 237-248, 265-271, AND COMMON AREA 6B, COUNTY PLAN NO. S-0006-2015 OR ANY PLANS APPROVED BY AND ON FILE WITH THE COUNTY OF JAMES CITY AND THAT JAMES CITY COUNTY IS, IN CONSEQUENCE ENTITLED TO THE AMOUNT OF THE ACCOMPANYING DRAFT.



Jason Hulse
Assistant County Administrator

Attachment

APPROVED AS TO FORM



COUNTY ATTORNEY

EXHIBIT A

Sight Draft and Certification of Default

June 2, 2017

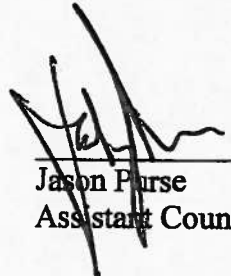
***PAY TO THE ORDER OF COUNTY OF JAMES CITY, VIRGINIA

Three hundred sixty three thousand four hundred ninety four and 00/100

“DRAWN UNDER LETTER OF CREDIT NO. D006845, DATED JUNE 02, 2015 OF FULTON BANK, N.A., LETTER OF CREDIT DEPARTMENT, ONE PENN SQUARE, LANCASTER, PA 17602,”

To: Fulton Bank, N.A.
601 Thimble Shoals Blvd., Suite 200
Newport News, VA 23606

County of James City, Virginia



Jason Purse
Assistant County Administrator



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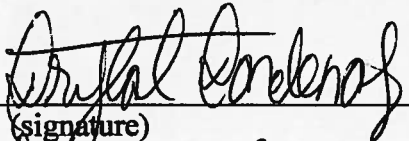
RE: Monticello Woods Active Adult, LLC

Letter of Credit No. **D006845**

Issue Date: 6/2/2015

Expiration Date: 6/2/2017

Project: Settlement at Powhatan Creek, Phase III-B Lots 207-220, 223-231, 237-248, 265-271 and
Common Area 6B, County Plan No. S-0006-2015

I 
(signature)

Cristal Cardenas
(print name)

acknowledge receipt of the written

statements and accompanying drafts requesting the draw of \$363,494.00 on the above referenced Letter of
Credit.

The above documents were hand delivered on Friday, June 2, 2017

To: Fulton Bank, N.A.
601 Thimble Shoals Blvd, Suite 200
Newport News, VA 23606

Fulton Bank

LISTENING IS JUST THE BEGINNING.

6/2/17

LETTER OF CREDIT GROUP

AMENDMENT TO STANDBY LETTER OF CREDIT NO. D006845

~~BENEFICIARY:~~ JAMES CITY COUNTY, VIRGINIA
ENGINEERING AND RESOURCE
PROTECTION DIVISION
101-E MOUNTS BAY ROAD
WILLIAMSBURG, VA 23185

APPLICANT: MONTICELLO WOODS ACTIVE ADULT, LLC
C/O JAMESTOWN MANAGEMENT
P.O. BOX 5787
WILLIAMSBURG, VA 23188

EFFECTIVE DATE OF AMENDMENT: MAY 19, 2016

LADIES AND GENTLEMEN:

THIS IRREVOCABLE STANDBY LETTER OF CREDIT HAS BEEN AMENDED AS
FOLLOWS:

-EXPIRY DATE HAS BEEN EXTENDED TO JUNE 02, 2017.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

VERY TRULY YOURS,

FULTON BANK, N.A.

Diane Brenner LCOO
AUTHORIZED SIGNATURE

WE HEREBY ACCEPT AND ACKNOWLEDGE RECEIPT OF THIS AMENDMENT.

JAMES CITY COUNTY, VIRGINIA

<u>Melanie Shaw</u>	<u>Sr Eng Assistant</u>	<u>5/31/16</u>
NAME	TITLE	DATE

Fulton Bank

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LETTER OF CREDIT GROUP

6/2/16

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: D006845

PAGE 1

ISSUE DATE: JUNE 02, 2015

EXPIRY DATE: JUNE 02, 2016

AMOUNT: USD 363,494.00

BENEFICIARY: JAMES CITY COUNTY, VIRGINIA
ENGINEERING AND RESOURCE
PROTECTION DIVISION
101-E MOUNTS BAY ROAD
WILLIAMSBURG, VA 23185

APPLICANT: MONTICELLO WOODS ACTIVE ADULT, LLC
C/O JAMESTOWN MANAGEMENT
P.O. BOX 5787
WILLIAMSBURG, VA 23188

ATTENTION: DIRECTOR, ENGINEERING AND RESOURCE PROTECTION
DIVISION

LADIES AND GENTLEMEN:

WE HEREBY ISSUE THIS IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR WHICH IS AVAILABLE AGAINST YOUR DRAFTS AT SIGHT ON FULTON BANK, N.A. EACH DRAFT HEREUNDER MUST BEAR UPON ITS FACE "DRAWN UNDER LETTER OF CREDIT NO. D006845, DATED JUNE 02, 2015 OF FULTON BANK, N.A., LETTER OF CREDIT DEPARTMENT, ONE PENN SQUARE, LANCASTER, PA 17602," AND BE ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

YOUR WRITTEN STATEMENT THAT MONTICELLO WOODS ACTIVE ADULT, LLC HAS FAILED TO SATISFACTORILY PERFORM, PRIOR TO THE EXPIRATION OF THIS LETTER OF CREDIT, ALL OR PART OF THE TERMS AND CONDITIONS OF THE SUBDIVISION AGREEMENT DATED JANUARY 6, 2015, PERTAINING TO THE SUBDIVISION/SITE PLAN THE SETTLEMENT AT POWHATAN CREEK, PHASE III-B LOTS 207-220, 223-231, 237-248, 265-271, AND COMMON AREA 6B, COUNTY PLAN NO. S-0006-2015 OR ANY PLANS APPROVED BY AND ON FILE WITH THE COUNTY OF JAMES CITY AND THAT JAMES CITY COUNTY IS, IN CONSEQUENCE ENTITLED TO THE AMOUNT OF THE ACCOMPANYING DRAFT.

IN ADDITION TO THE LOCATION LISTED ABOVE, THIS LETTER OF CREDIT MAY BE DRAWN AT THE LOCAL OFFICE OF FULTON BANK, N.A., 601 THIMBLE SHOALS BLVD., SUITE 200, NEWPORT NEWS, VIRGINIA 23606. A DRAW AT A LOCAL OFFICE SHALL BE DEEMED MADE WHEN RECEIVED BY THE LOCAL OFFICE AND SHALL HAVE THE SAME CAUSE AND EFFECT AS A DRAW AT THE MAIN OFFICE OF FULTON BANK, N.A.

Fulton Bank

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LETTER OF CREDIT GROUP

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: D006845

PAGE 2

KINDLY ADDRESS CORRESPONDENCE REGARDING THIS LETTER OR CREDIT TO FULTON BANK, N.A., ATTN: LETTER OF CREDIT DEPT., ONE PENN SQUARE, LANCASTER, PA 17602. TELEPHONE INQUIRIES SHOULD BE DIRECTED TO THE LETTER OF CREDIT DEPARTMENT AT (800)610-3924.

IF CANCELLATION OF THIS STANDBY LETTER OF CREDIT IS REQUIRED BEFORE THE EXPIRY DATE HEREIN OR ANY EXTENDED EXPIRY DATE, THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT AND ALL AMENDMENTS, IF ANY, MUST BE RETURNED TO US WITH THE BENEFICIARY'S LETTER REQUESTING CANCELLATION.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS", FIXED BY INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600, 2007 REVISION.

VERY TRULY YOURS,

FULTON BANK, N.A.

Diane A. Brenner LCOO
AUTHORIZED SIGNATURE



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LETTER OF CREDIT GROUP

JUNE 02, 2015

JAMES CITY COUNTY, VIRGINIA
ENGINEERING AND RESOURCE
PROTECTION DIVISION
101-E MOUNTS BAY ROAD
WILLIAMSBURG, VA 23185

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. D006845

LADIES AND GENTLEMEN:

ENCLOSED IS AN ORIGINAL STANDBY LETTER OF CREDIT ISSUED AT THE
REQUEST OF OUR CUSTOMER, MONTICELLO WOODS ACTIVE ADULT, LLC.
TELEPHONE INQUIRIES REGARDING THIS STANDBY LETTER OF CREDIT
SHOULD BE DIRECTED TO THE LETTER OF CREDIT DEPT. AT 800-610-3924.

KINDEST REGARDS,

A handwritten signature in black ink, appearing to read 'Priya Kanabar'.

PRIYA KANABAR
FULTON BANK, N.A.



Subdivision Agreement

THIS AGREEMENT, made this 6th day of January 2015, by and between Monticello Woods Active Adult, LLC and all successors in interest, party(ies) of the first part, (the "Owner"), and the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia, party of the second part, (the "County").

WHEREAS, the party(ies) of the first part is(are) the Owner of a certain tract of land located in the County; and

WHEREAS, the said parcel of land is being subdivided by the Owner into the subdivision known and designated as The Settlement at Powhatan Creek, Phase III-B Lots 207-220, 223-231, 237-248, 265-271, and Common Area 6B, County Plan No. S-0006-2015 (the "Subdivision") and the Owner has caused a plat of the Subdivision dated January 16, 2015 and revised April 1, 2015, and prepared by AES Consulting Engineers, Inc, Licensed Land Surveyors, or Professional Engineers, which the plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County; and

WHEREAS, the Owner agrees to construct and locate all physical improvements in the Subdivision, as required by the Subdivision Ordinance of the County, or shown on the development plans approved by the Agent of the Subdivision Ordinance, (the "Agent"); and

WHEREAS, the Owner has posted sufficient bond, letter of credit, certified or cashier's check, or escrow fund, (collectively the "Security Instrument"), pursuant to existing ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of dollars (\$363,494.00) guaranteeing the installation of the aforementioned improvements before June 2, 2016; and

WHEREAS, the County has agreed that it will permit the recordation of the plat of the Subdivision upon the execution of this Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that for and in consideration of the premises and the approval of the Subdivision and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County, on or before June 2, 2016, construct to the approval of the County all physical improvements as required by the Subdivision Ordinance of the County, or shown on the development plans approved by the Agent. If, in the sole judgment of the County, circumstances beyond the control of the Owner prevent the Owner from completing the improvements in the time set forth herein, then the County may at its sole discretion grant an extension of time for completion of the improvements and in such instance the Owner and County shall enter into a new agreement.
2. It is mutually understood and agreed that in the event the Owner fails to renew or amend the Security Instrument at least ten (10) days prior to its expiration or fails to properly complete the physical improvements provided herein, the County may complete, or cause to have completed, the same and render a bill to the Owner who shall be liable to the County for all proper costs so incurred by the County or the County may draw the amount necessary from the Security Instrument to complete or cause to have completed the same.
3. In the event the County calls, collects, or otherwise draws on the Security Instrument pledged under this Agreement, the Owner agrees to either pay, or have the County use the proceeds of the draw to pay a reasonable administrative fee of \$35 plus any costs actually incurred by the County in drawing on the

Security Instrument. The charge for an administrative fee plus costs shall apply regardless of whether the County later accepts a renewal or amendment of the Security Instrument.

4. It is mutually understood and agreed that this Agreement does not relieve the Owner of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such subdivision and development of the property, and the subdivision and development of the property will be done in strict accordance with such ordinances.

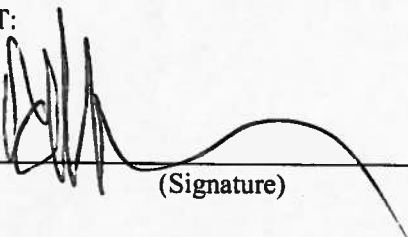
5. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the Subdivision Ordinance and the provisions of this Agreement, and shall indemnify, protect and save harmless the County from all loss, damage, expense, or cost by reason of any claim, suit or action instituted against the County or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner, then the Security Instrument shall be released by the County to the Owner.

6. The Owner does hereby agree to indemnify, protect, and save harmless the County from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence, or use of the streets, utilities, and public easements required by, and shown on, the development plans and the subdivision plat until such time as the said streets shall be accepted as part of the Virginia Department of Transportation's system and utilities and public easements shall be accepted as a part of the James City Service Authority's or the County's system. To insure such indemnification, the County may require and the Owner shall provide upon request a Certificate of Public Liability Insurance in an amount approved by the County Attorney as sufficient, including a governmental endorsement thereto, naming the County as insured, issued by an insurance company licensed to do business in the Commonwealth of Virginia.

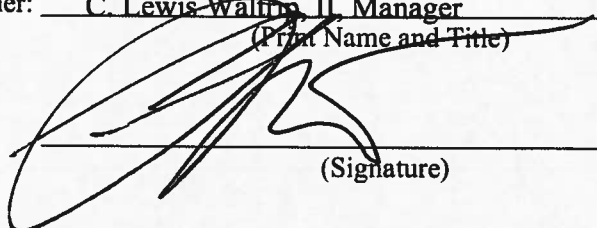
7. It is mutually understood and agreed, that the approval on final plat or plats of the Subdivision, or section thereof, shall not be deemed to be an acceptance by the County of any street, alley, public space, sewer, or other physical improvements shown on the plat or plats for maintenance, repair, or operations thereof, and that the Owner shall be fully responsible therefore and assume all of the risks and liabilities therefore.

IN WITNESS WHEREOF, the parties hereto being first duly authorized have affixed their signatures on the date first above written.

ATTEST:



(Signature)

Owner: C. Lewis Waltrip, II, Manager
(Print Name and Title)


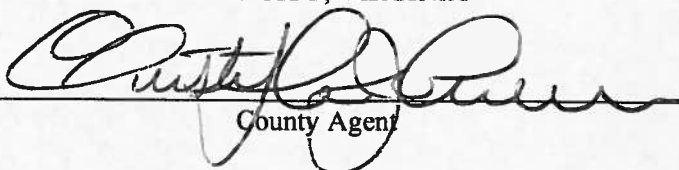
(Signature)

Approved as to form:



County Attorney

COUNTY OF JAMES CITY, VIRGINIA



County Agent